

### REMARKS

This is in response to the Official Action of September 25, 2001. The points raised therein are addressed below.

Initially, the specification is objected to as containing amino acid sequences requiring SEQ ID Nos. Since the instant invention is not concerned with peptides and the amino acids recited in the background are of tangential background interest only, the specification has been amended to delete these sequences to simplify the issues herein. Accordingly, it is respectfully submitted that this objection may be withdrawn.

Claims 1-14 stand rejected under the second paragraph of 35 USC 112 as indefinite on pages 4-5 of the Official Action. Reconsideration in light of the amendments herein and the remarks below is respectfully requested.

The phrase "controlling" a pest is objected to as indefinite. Accordingly, the language suggested by the examiner has been adopted in part by replacing "controlling" with "inhibiting propagation". Accordingly, it is respectfully submitted that this rejection may now be withdrawn.

Further, claim 1 is objected to as unclear in what is a "pest". Since the instant invention is primarily concerned with insects, claim 1 has been amended to recite "insect" rather than "pest". Accordingly, it is respectfully submitted that this rejection may now be withdrawn.

Further, claim 1 is rejected as indefinite in the use of the phrase "subject to the proviso that". This phrase has been replaced with the conventional language "wherein" to clarify that the recited limitations are to be taken as mandatory.

Claim 1 stands rejected in the use of the variable "R" where no such variable is present. This variable has been amended to read "R<sub>7</sub>" consistent with the recitations concerning R<sub>7</sub> and R<sub>8</sub> in the previous clause of this claim.

Finally, claim 1 stands objected to as indefinite in the lack of recitation of an endpoint. While applicant acknowledges with appreciation the suggestions of alternate language by the examiner, applicant has instead utilized the phrase "insecticidal effective amount" to describe the amount administered and the goal of the treatment. Note that the specification extensively discusses "pesticidal" in conjunction with "insects" on, for example, page 13, (including a discussion of lethal dose against mosquito larvae on page 13 line 6) providing written description support for the phrase now being introduced.

In view of the foregoing, it is respectfully submitted that the rejection of claim 1, and claims 2-14 dependent thereon, under the second paragraph of 35 USC 112 may now be withdrawn.

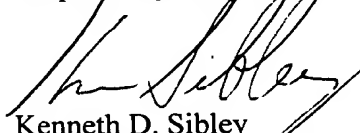
Claims 1-14 stand rejected under the first paragraph of 35 USC 112 as lacking enablement on pages 3-4 of the Official Action. Reconsideration is respectfully requested.

As an initial matter, it is noted that, while TMOF-mediated activity is one theory of the invention, applicants do not in claims 1-14 wish to be bound to any particular theory, as these claims simply recite pesticidal (or now insecticidal) activity. TMOF-mediated activity is recited in claims 15 et seq.). Insecticidal activity is a well-established use or utility, and it is respectfully submitted that a claim directed to insecticidal activity should be considered objectively enabled, such that the burden is not shifted to the applicant to submit further evidence that the enablement requirement is satisfied. *See generally* MPEP 2164.04. Accordingly, reconsideration and withdrawal of this requirement is respectfully requested.

The changes made by the amendments above are shown in the attached "**Version with Markings to Show Changes Made**".

It is respectfully submitted that this application is in condition for allowance, which action is respectfully requested.

Respectfully submitted,

  
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PATENT TRADEMARK OFFICE

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner For Patents, Washington, DC 20231, on June 6, 2002.

  
Candi Riggs

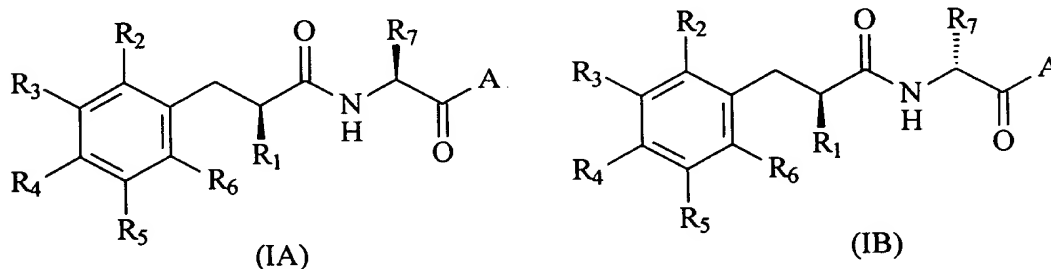
Date of Signature: June 6, 2002

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**Version with Markings to Show Changes Made**

Following the 1985 report, the isolated hormone, (a ten amino acid peptide) and two TMOF analogues were disclosed in U.S. Patent Nos. 5,011,909 and 5,130,253, and in a 1990 publication (Borovsky et al. [1990] *FASEB J.* 4:3015-3020). Additionally, U.S. Patent No. 5,358,934 discloses truncated forms of the full length TMOF which have prolines removed from the carboxy terminus[, including the peptides YDPAP, YDPAPP, YDPAPPP, and YDPAPPPP].

1 (amended). A method for [controlling a pest, comprising administering to said pest a pesticidally effective amount of a pesticidal] inhibiting propagation of an insect comprising administering to said insect an insecticidal effective amount of an insecticidal compound of **Formula IA or Formula IB:**



wherein:

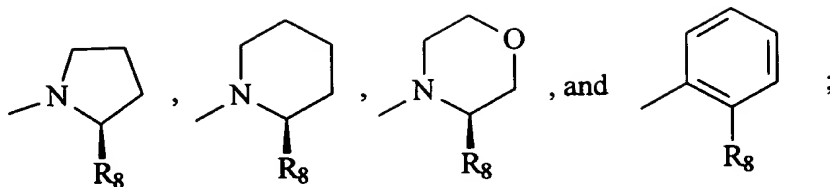
R<sub>1</sub> is -H, -NH<sub>2</sub>, or -OH;

R<sub>2</sub>, R<sub>3</sub>, R<sub>4</sub>, R<sub>5</sub>, and R<sub>6</sub> are each independently selected from the group consisting of H, halogen, hydroxyl, alkyl, alkylhydroxy, alkoxy, or phenyl;

or a pair of R<sub>2</sub> and R<sub>3</sub>, R<sub>3</sub> and R<sub>4</sub>, R<sub>4</sub> and R<sub>5</sub>, and R<sub>5</sub> and R<sub>6</sub> together are -(CH)<sub>4</sub>- to form a naphthyl group;

R<sub>7</sub> is H, alkyl, phenyl, alkylphenyl, or alkylcarboxy; and

A is selected from the group consisting of:



wherein  $R_8$  is H, alkylhydroxy, or carboxy;

[subject to the proviso that] wherein at least one of  $R_7$  and  $R_8$  is carboxy or alkylcarboxy;

and [subject to the proviso that] wherein, when  $R_1$  is  $-NH_2$ , then one of [R]  $R_7$  or  $R_8$  is not carboxy or alkylcarboxy.